

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JUN 22 1982

THE MAGNAVOX COMPANY, a )  
Corporation, and )  
SANDERS ASSOCIATES, INC., a )  
Corporation, )  
Plaintiffs, ) Civil Action Nos.  
v. ) 78 C 5041  
MATTEL, INC., et al. ) 80 C 4124  
Defendants. ) JUDGE GEORGE N. LEIGHTON

PLAINTIFFS' PROPOSED FINDINGS OF FACT  
FOR THEIR PRIMA FACIE CASE

111

12. As to the remaining defendants in Civil Action No. 80 C 4124, defendant Mattel Sales Corporation is a California corporation which markets the Intellivision product. Defendants S-W Distributors, Inc., and William M. Linz Associates, Inc. are Illinois corporations which distribute the Intellivision product. Defendant Brunswick Corporation is a Delaware corporation which retails the Intellivision product. Defendant Rozel Industries, Inc. is a Delaware corporation which is a distributor and retailer of the Intellivision product.

13. The single remaining defendant in Civil  
Action No. 78 C 5041 is Sears, Roebuck & Co., a Delaware  
corporation which is a retailer of the Intellivision product.

14. The defendant Mattel manufactures and/or sells and has manufactured and/or sold in the United States after August 5, 1975 console models listed in the following, each of the consoles being <sup>generally</sup> accurately shown and described in the stated exhibits, and each such console being referred to by Mattel as a "Master Component":

<u>Model</u>	<u>Exhibits</u>
2609	62, 116, 117, 118, 119, 120, 121, 125, 127, 128, 130
1590	116, 117, 118, 119, 120, 121, 125, 127, 128, 130
1929	116, 117, 118, 119, 120, 121, 125, 127, 128, 130
Sears	117, 118, 119, 120, 121, 124, 127, 128, 130

AGREED TO BY MATTEL

27. Mattel has sold in the United States after August 5, 1975 the cartridges for its Master Component listed in the following table, each of the games playable <sup>generally</sup> with the listed cartridge being described in the stated exhibits:

<u>Model No.</u>	<u>Exhibits</u>
1114 NFL Hockey	66, 132
1683 NASL Soccer	68, 134
1814 Tennis	70, 126
2610 NFL Football	72, 73, 131
2614 Major League Baseball	75, 135
2615 NBA Basketball	77, 133

AGREED TO BY MATTEL

28. Plaintiffs allege that the manufacture, use, and/or sale within the United States of the combination of a Mattel Master Component with one of the Mattel cartridges listed in the following table infringes the stated claims of the '507 patent, and allege that the sale within the United States of each cartridge listed in the following table constitutes an act of contributory infringement of the stated claims of the '507 patent:

<u>Model No.</u>	<u>Claims</u>
1114, NHL Hockey	25, 26, 51, 52, 60, 61, 62
1683, NASL Soccer	25, 26, 51, 52, 60, 61, 62
1814, Tennis	25, 26, 51, 52, 60, 61, 62
2610, NFL Football	25, 26, 51, 52, 60
2614, Major League Baseball	25, 26, 51, 52, 60, 61, 62
2615, NBA Basketball	25, 26, 51, 52, 60, 61, 62

Claims 25, 51, and 60 will be treated by the parties as representative claims for this litigation.

AGREED TO BY MATTEL

43. The first model ODYSSEY television game commercially introduced by Magnavox was the Model 1TL 200; the Model 1TL 200 ODYSSEY television game was first placed on sale by Magnavox in April 1972.

44. The 1972 Magnavox video game ODYSSEY Model 1TL 200 was nationally publicized during the months of April and May 1972.

48. The Magnavox ODYSSEY television game Model 1TL 200 was reported in an article appearing in the Wall Street Journal dated May 11, 1972. (Plaintiffs' Ex. 78)

49. The Magnavox ODYSSEY television game Model 1TL 200 was reported in an article appearing in the trade publication Television Digest dated May 15, 1972. (Plaintiffs' Ex. 79)

50. The Magnavox ODYSSEY television game Model 1TL 200 was reported in an article appearing in Time magazine dated May 22, 1972. (Plaintiffs' Ex. 80)

51. The Magnavox ODYSSEY television game Model ITL 200 was nationally demonstrated to Magnavox dealers, distributors, sales personnel, and other persons at shows around the country during May 1972. The first such show began on May 3, 1972 in Phoenix, Arizona. One such show occurred on May 23-25, 1972 in Burlingame, California.

60. On June 15, 1972, Bushnell terminated his employment with Nutting Associates, Inc. and commenced devoting his full time to the activities of Syzygy Company, a partnership of Bushnell and S. Fred Dabney.

61. Some time after June 15, 1972, Bushnell entered into a "Royalty Agreement" with Bally Manufacturing Corporation, under which Bushnell agreed to supply to Bally a prototype of a video amusement game.

63. Some time after June 26, 1972, Allen Alcorn became an employee of Atari and Bushnell gave Alcorn the assignment of developing a video game which would simulate a tennis game to fulfill the agreement with Bally.

64. Alcorn and Bushnell then designed and built a prototype of a television game that simulated tennis, which prototype became the coin-operated arcade television game Pong manufactured and sold by Atari.

65. The arcade video game Pong was first manufactured and sold by Atari in 1973.

68. Following the commercial introduction of the Atari arcade Pong game, many other manufacturers commercially introduced similar arcade games having a display substantially the same as Pong. Those games included the games TV Ping Pong, TV Tennis, Olympic TV Hockey, and TV Goalee by Chicago Dynamic Industries, Inc., the games Paddle Ball, Pro Hockey, Pro Tennis, and Olympic Tennis by Seeburg Industries, Inc., Paddle Battle and Tennis Tourney by Allied Leisure Industries, Inc., and Winner and Playtime by Midway Mfg. Co. Those games are shown in plaintiffs' Exhibits 86 through 99.

74. In 1975, Magnavox commercially introduced the Odyssey 100 and Odyssey 200 home television games, the Models YF7010 and 7015, respectively.

78. The basic design of the General Instrument AY-3-8500 component was done by Gilbert Duncan Harrower of General Instrument.

83. In 1976, Magnavox commercially introduced the Odyssey 300, Odyssey 400, Odyssey 500, and Odyssey 3000 television games, the Models BG 7500, BG 7516, BG 7520, BH 7514, respectively, and the Model BG 4305, a television receiver having a built-in television game.

86. In 1977, Magnavox commercially introduced the Odyssey 2000 and Odyssey 4000 television games, the Models BG 7510 and BH 7511, respectively, and also manufactured the Wonder Wizard Bulls Eye and Wonder Wizard Sharp Shooter television games, the Models PH 7704 and PH 7705, respectively.

90. During the period 1972 through 1981, Magnavox sold 1,773,918 units of the Odyssey, Odyssey 100, Odyssey 200, Odyssey 300, Odyssey 400, Odyssey 500, Odyssey 2000, Odyssey 3000, Odyssey 4000, and Model BG 4305 television receiver with built-in games. The dollar value of such sales to Magnavox was \$71,300,000.00.

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91. Prior to the commercial introduction of television games including microprocessors, most of the television games sold for use in the home were of the type known as "ball and paddle" games. The 1972 Odyssey, Odyssey 100, Odyssey 200, Odyssey 300, Odyssey 400, Odyssey 500, Odyssey 2000, Odyssey 3000, Odyssey 4000, and Atari's consumer Pong television games are examples of such games. Other similar games were manufactured and/or sold by Universal Research Laboratories, Incorporated, Executive Games, Inc., APF Electronics, Inc., Unisonic Products, Inc., First Dimension, Inc., Coleco Industries, Inc., and others. Some of these other games are depicted in plaintiffs' Exhibits 107 through 112.

98. Bally and Fairchild were previously defendants in this set of actions but settled out prior to trial. Fairchild has taken a license under the '507 patent. Bally, having stopped manufacturing and/or selling the television games which formed the basis for the charge of infringement of the '507 patent, has an option for a license under the patent in suit if it should resume those activities. Judgment on consent of the parties thereto were entered as to both Fairchild and Bally that television games that they manufactured and that included a microprocessor infringed the '507 patent, and that the patent was valid.

100. In 1978, Magnavox commercially introduced the  
Odyssey<sup>2</sup> television game which included a microprocessor.

103. In early 1977 Mattel commenced the development of a television game product; Mattel approached a number of suppliers of integrated circuit components concerning the possibility of developing such a product.

104. In June, 1977 Mattel became aware that General Instrument had commenced development of the integrated circuit components including a microprocessor which could be used for the manufacture of television games.

105. In June, 1977, representatives of Mattel received a demonstration of the General Instrument development during the course of the Consumer Electronics Show in Chicago, Illinois. Jack Denham was one of those representatives; at the time Denham was Senior Vice-President of Operations of the Toy Division of Mattel.

106. After a number of meetings between Mattel and General Instrument, Mattel and General Instrument agreed to jointly develop a television game making use of a microprocessor.

107. David Chandler participated in the meetings with General Instrument on behalf of Mattel. At that time, Chandler was Senior Design Engineer of the Toy Division of Mattel.

108. Chandler was the individual at Mattel primarily responsible for the technical design of the Mattel Intellivision television game.

109. Chandler had no specific knowledge of the circuitry within the components developed by General Instrument.

110. Four employees of Mattel had primary management responsibility for the decision to use the components developed by General Instrument in the Mattel Intellivision television game. These four individuals were Ray Wagner, President of the Toy Division of Mattel, Jack Denham, Senior Vice-President of Operation of the Toy Division of Mattel, Ed Hamway, Senior Vice-President of Marketing of the Toy Division of Mattel, and Ed Krakauer, Vice-President of Marketing for New Business of the Toy Division of Mattel. Chandler and Jeff Rochlis, a director or marketing of the Toy Division of Mattel, were also involved in making the decision.

111. The Mattel Intellivision television game was first manufactured in commercial quantities in the latter half of 1979.

112. When the Mattel Intellivision game was first introduced, only three cartridges were available for it. Two of those cartridges were Baseball and Basketball.

113. The principle component developed as a result of the joint development agreement of Mattel and General Instrument is a component referred to as a Standard Television Integrated Circuit Chip or STIC chip. The Mattel Master Components sold in the United States include a STIC chip manufactured by General Instrument under the part number AY-3-8900-1.

114. The basic design of the General Instrument  
AY-3-8900-1 STIC chip was done by Gilbert Duncan Harrower of  
General Instrument.

115. The STIC chip is principally responsible for the display of symbols on the television screen at positions determined by the microprocessor which is also included within the Master Component.

116. The STIC chip also generates the timing information needed for the generation of horizontal and vertical synchronization and blanking signals.

117. In the television game formed by the combination of the Mattel Master Component and the Tennis cartridge:

- (a) The display shown on the television screen includes a symbol on the right side of the screen representing a first player with a tennis racquet, a symbol on the left side of the screen representing a second player with a tennis racquet, and a symbol which moves across the screen representing a ball.
- (b) Player controls are provided so that each human player can move his corresponding player symbol on the face of the screen and cause that player symbol to appear to swing its racquet.
- (c) Each human player manipulates his corresponding symbol to intercept the path of the ball as it moves across the screen and, at the same time, cause the player symbol to appear to swing its racquet.
- (d) When the player successfully intercepts the ball symbol, i.e., the player and racquet symbol appears to hit the ball symbol on the

screen, the motion of the ball is changed and, in particular, the horizontal motion of the ball is reversed so that it travels back toward the other player.

- (e) Either player/racquet symbol is a hitting symbol.
- (f) The ball symbol is a hit symbol.
- (g) The player/racquet symbol and the ball symbol are in coincidence when the player/racquet symbol appears to hit the ball symbol.
- (h) A distinct motion is imparted to the ball symbol upon the occurrence of such coincidence.
- (i) There is means for generating a hitting symbol.
- (j) There is means for generating a hit symbol.
- (k) The means for generating a hit symbol includes means for ascertaining coincidence between the hitting symbol and the hit symbol.
- (l) The means for generating a hit symbol includes means for imparting a distinct motion to said hit symbol upon coincidence.
- (m) There is means for generating vertical and horizontal synchronization signals.

- (n) When connected in combination with a television receiver, there is means responsive to the vertical and horizontal synchronization signals for deflecting the beam of the cathode ray picture tube in the television receiver to generate a raster on the screen of that picture tube.
- (o) Includes, when connected in combination with a television receiver, means coupled to the synchronization signal generating means and the cathode ray picture tube in the television receiver for generating a first symbol on the screen of that picture tube at a position which is directly controlled by a player.
- (p) Includes, when connected in combination with a television receiver, means coupled to the synchronization signal generating means and the cathode ray picture tube for generating a second symbol on the screen of that picture tube which is movable.
- (q) Includes means coupled to the first symbol generating means and the second symbol generating means for determining coincidence between the first symbol and the second symbol.

(r) Includes means coupled to the coincidence determining means and the second symbol generating means for imparting a distinct motion to the second symbol in response to said coincidence.

125. Magnavox has collected approximately \$18,500,000 in royalty payments from sublicensees under the '507 patent and in settlement of infringement charges of the '507 patent from 1976 through May, 1982. This sum includes payments based upon the manufacture and sale of television games which included microprocessors.

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